



I hereby give notice that a Limestone Coast Southern Regional Assessment Panel will be held on:

Date: Wednesday, 10 August 2022
Time: 12:00 p.m.
Location: Council Chamber
Wattle Range Council
Civic Centre
George Street
Millicent

AGENDA

Limestone Coast Southern Regional Assessment Panel 10 August 2022

A handwritten signature in black ink, appearing to read "Tracy Tzioutziouklaris".

**Tracy Tzioutziouklaris
Assessment Manager
5 August 2022**

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1 ACKNOWLEDGEMENT OF COUNTRY

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR FIRST NATIONS PEOPLES HAVE WITH THE LAND.

2 APOLOGY(IES)

Nil

3 CONFIRMATION OF MINUTES

Nil

4 QUESTIONS WITHOUT NOTICE**5 INVITEES**

- As from 1 October 2017, every Council is required to establish an Assessment Panel under provisions within the Planning, Development and Infrastructure Act 2016 to determine and make decisions on development applications as delegated to the Panel.
- When the Panel is considering an application, it must assess the proposal against the Planning and Design Code.
- The meeting itself is informal, however, all decisions made by the Assessment Panel are formal.
- Representors will be allocated 5 minutes to make their presentation, after which, Panel Members may ask questions to clarify any issues. It is solely a question and answer session. There will be no debate entered into.
- Council Officers will advise you of the decision as soon as practical after the meeting.

Invitees for Item 6.7 - Lot 1 Backler Street, Robe

The Applicant/s - Ms Jessica Malone and Mr William Speirs
The Representor - Mr James Jess

Invitees for Item 6.8 - 80 Mount Gambier Road, Millicent & 81 Wylie Road, Millicent

The Applicant - PC Infrastructure Pty Ltd
The Representor - Mr Gary Neve

6 REPORTS**6.1 LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL - MEETING PROCEDURES – REPORT NO. AR22/42841**

Committee:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	10 August 2022
Report No.:	AR22/42841
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Assessment Manager
Summary:	The meeting procedures guide the conduct of the formal activities of the Limestone Coast Southern Regional Assessment Panel.
Strategic Plan Reference:	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage
	Goal 5: Our Commitment

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/42841 titled 'Limestone Coast Southern Regional Assessment Panel - Meeting Procedures' as presented on 10 August 2022 be adopted.
2. That the Limestone Coast Southern Regional Assessment Panel Meeting Procedures as attached to Report No. AR22/42841 be adopted.



BACKGROUND

The Limestone Coast Southern Regional Assessment Panel (the Panel) has been established under the Planning, Development and Infrastructure Act 2016 (the Act) to operate in relation to a defined scope of development assessment matters across four local government areas of the Southern Limestone Coast.

DISCUSSION

It is necessary for the Panel to adopt a meeting procedures policy to guide the conduct of its formal activities. The Local Government Association (LGA) of SA has provided template meeting procedures prepared by Norman Waterhouse Lawyers to assist in this decision. The proposed Limestone Coast Southern Regional Assessment Panel (LCSRAP) meeting procedures have been developed in line with the template and are attached to this report for Members perusal and information.

CONCLUSION

It is recommended that the meeting procedures as attached to this report be adopted as the meeting procedures policy of the LCSRAP.

ATTACHMENTS

1. Limestone Coast Southern Regional Assessment Panel (LCSRAP) - Meeting Procedures - July 2022



6.2 LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL - TERMS OF REFERENCE – REPORT NO. AR22/42835

Committee:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	10 August 2022
Report No.:	AR22/42835
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Assessment Manager
Summary:	The purpose of this report is for the Panel to adopt the Limestone Coast Southern Regional Assessment Panel Terms of Reference.
Strategic Plan Reference:	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage
	Goal 5: Our Commitment

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/42835 titled 'Limestone Coast Southern Regional Assessment Panel - Terms of Reference' as presented on 10 August 2022 be received and noted.



BACKGROUND

Pursuant to the Planning, Development and Infrastructure Act 2016 (PDI Act), a Regional Assessment Panel (the Panel) established by the Minister for Planning must act in accordance with the PDI Act, which requires a Terms of Reference for the Panel.

DISCUSSION

A Terms of Reference has been drafted for the Panel and is attached for Members perusal and Information.

CONCLUSION

The Panel is required to have a Terms of Reference and it is recommended the Panel adopts the Terms of Reference as attached to this report.

ATTACHMENTS

1. Draft - Limestone Coast Southern Regional Assessment Panel - Terms of Reference - July 2022



6.3	DELEGATIONS - PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 – REPORT NO. AR22/42827
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Meeting:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	10 August 2022
Report No:	AR22/42827
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Assessment Manager
Summary:	This report presents the instrument of delegation under the Planning, Development and Infrastructure Act 2016 as they apply to the Regional Assessment Panel as a relevant authority
Community Plan Reference:	Goal 1: Our People Goal 2: Our Location Goal 3: Our Diverse Economy Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage

REPORT RECOMMENDATION

1. That Regional Assessment Panel Report No. AR22/42827 titled 'Delegations - Planning, Development and Infrastructure Act 2016' as presented on 10 August 2022 be noted.
2. Pursuant to Section 100 of the Planning, Development and Infrastructure Act 2016, the Limestone Coast Southern Regional Assessment Panel (RAP) delegates each function or power of the Regional Assessment Panel as identified in Attachment 1 Regional Assessment Panel Report No. AR22/42827 (marked as Instrument C) to the Chief Executive Officer of the District Council of Grant, the District Council of Robe, Wattle Range Council, the City of Mount Gambier and Assessment Manager subject to the following conditions and limitations:
 - (a) The delegations may be sub delegated by the Chief Executive Officer and Assessment Manager;
 - (b) All applications for Building Consent are delegated to each Council respectively.
 - (c) Each delegation of a power or function granted under this instrument is independent of, and severable from, every other delegation granted under this instrument;
 - (d) If two or more (sub)delegates are nominated in respect of a power or function, then each nominated person is granted a (sub)delegation and may exercise the power or function independently of any other (sub)delegate;
 - (e) Delegates must exercise a delegate or power in accordance with applicable legislative and legal requirements; and due regard to relevant policies and guidelines adopted by the Council;
 - (f) If a delegation of a power or function under this instrument is determined to be invalid or unlawful, the invalid or unlawful delegation will be deemed to be severed from this instrument and remaining delegation will continue to operate according to their terms;
 - (g) These delegations will come into operation on Friday 1 July, 2022;
3. The delegations granted by these resolutions will remain in force until varied or revoked by resolution of the Limestone Coast Southern Regional Assessment Panel.



BACKGROUND

Together the District Council of Grant, the District Council of Robe, Wattle Range Council and the City of Mount Gambier reached agreement and endorsed a Memorandum of Understanding, which was forwarded to the Minister for Planning by letter dated 20 December 2021, seeking the agreement of the Minister of Planning to form the Regional Assessment Panel. The Minister agreed to form the Limestone Coast Southern Regional Assessment Panel with the commencement date being 1 July 2022.

It should be noted once a Regional Assessment Panel has been formed the Council Assessment Panel's operated by each of the Councils will no longer be operational and will be disbanded.

DISCUSSION

The making of delegations under various pieces of legislation is ordinary practice and through sub delegation (usually from the Chief Executive Officer) to Council Officers enables the administrative duties and functions of Council to be performed in a timely and efficient manner. Essentially, delegations are the way Council (or in this case, the Regional Assessment Panel) authorises others (usually Council Officers) to undertake the day to day functions required of them to perform their roles.

Unlike most other pieces of legislation, which have simple delegation frameworks, the Planning, Development and Infrastructure Act 2016 (PDI Act) and associated regulations have a higher level of complexity, with four separate delegation instruments for the different capacities of Council, RAP and the Assessment Manager under the PDI Act, as follows:

Instrument A for delegation by Council as:

- Council
- a "designated authority"; or
- a "designated entity".

Instrument B for delegations by Council as:

- a "relevant authority".

Instrument C for delegations by the CAP/RAP

- these delegations can only be made by a CAP/RAP, being the purpose of this report.

Instrument D for delegations by the Council Assessment Manager;

- these delegations can only be made by an Assessment Manager and will be made under separate Instrument by the Assessment Manager.

Section 100 of the PDI Act allows a relevant authority (other than an accredited professional – a RAP is a relevant authority under the Act) to delegate its powers or functions under the Act. Delegations do not take away powers or functions from the relevant authority and the relevant authority is still able to act in any matter.

Instrument C – delegations to be made by the RAP – are attached for the RAP's consideration.

Unlike most pieces of legislation, which contains delegations from the Council to the Chief Executive Officer, these delegations are powers and functions given directly from the PDI Act and associated Regulations to a RAP, and not from Council. A RAP may then delegate those powers and functions (i.e. to the Assessment Manager) and they may be further sub delegated (i.e. from the Assessment Manager to Council Officers). A key difference under the Planning, Development and Infrastructure Act 2016 is there is no allowance for any involvement or influence from the Council's in making the particular delegations contained in the attached instrument C.



BUILDING CONSENT

Under the PDI Act, the RAP is the relevant authority for applications for building consent, unless an applicant chooses to have their application assessed by a building certifier. However, under Section 99 of the PDI Act, the RAP is able to refer applications for building consent to Council. If it does this, the Council, rather than the RAP, will be the relevant authority for building consent (i.e. the RAP will have no role to play in building consents if it refers them to the Council).

It is for the RAP to determine whether it will refer applications for building consent to the Council. If it chooses to do so, it does not need to refer each application as it comes in but can refer all future applications to the Council in advance via a resolution.

CONCLUSION

The report includes recommendations for the granting of delegation of powers and functions of the RAP as provided for in the attached Instrument C - Instrument of Delegations under the Planning, Development and Infrastructure Act 2016, Regulations, Planning and Design Code and Practice Directions of Powers of an Assessment Panel.

ATTACHMENTS

1. Instrument of Sub-Delegation Appendix - Powers and Functions - Planning, Development and Infrastructure Act 2016 - Powers of an Assessment Panel (Instrument C)



6.4 CODE OF CONDUCT FOR ASSESSMENT PANEL MEMBERS – REPORT NO. AR22/42828

Committee:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	10 August 2022
Report No.:	AR22/42828
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Assessment Manager
Summary:	This report presents the Plan SA Assessment Panel Members - Code of Conduct for noting.
Strategic Plan Reference:	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage
	Goal 5: Our Commitment

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/42828 titled 'Code of Conduct for Assessment Panel Members' as presented on 10 August 2022 be noted.



BACKGROUND

Under Schedule 3 of the Planning, Development and Infrastructure Act 2016 (PDI Act) the Minister may adopt a code of conduct to be observed by members of an assessment panel established under the PDI Act.

DISCUSSION

The code of conduct sets out standards of conduct and professionalism that are to be observed by all members of assessment panels of the PDI Act.

For the purposes of the PDI Act, a key requirement is that all members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of development assessment under the act.

The code of conduct is the key tool to ensure all members of assessment panels act honestly and ethically with a high degree of accountability. If a member of an assessment panel has any doubt in regard to any function they may perform under the Act they should seek the advice of the Assessment Manager or another appropriate person.

While some members of an assessment panel may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this code of conduct and any other professional code of standard this code prevails for the purposes of the Act.

CONCLUSION

It is recommended that the Limestone Coast Southern Regional Assessment Panel receives and notes the Plan SA Assessment Panel Members - Code of Conduct as attached.

ATTACHMENTS

1. Plan SA - Assessment Panel Members - Code of Conduct



6.5 REVIEW OF DECISIONS BY THE ASSESSMENT MANAGER – REPORT NO. AR22/42844

Committee:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	10 August 2022
Report No.:	AR22/42844
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Assessment Manager
Summary:	This report provides a policy for the review of decisions made by the Assessment Manager.
Strategic Plan Reference:	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage
	Goal 5: Our Commitment

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/42844 titled 'Review of Decisions by the Assessment Manager' as presented on 10 August 2022 be noted and the policy adopted.



BACKGROUND

The purpose of this report is to seek the Panel's endorsement of the Limestone Coast Southern Regional Assessment Panel Review of Decision of Assessment Manager Policy.

DISCUSSION

The Planning, Development and Infrastructure Act 2016 provides an opportunity for an applicant who is dissatisfied with a decision made by an Assessment Manager in respect of a development application to the Regional Assessment Panel (RAP) for a review of that decision,

The new draft policy has been developed to ensure the RAP meets its legislative obligations under Section 202 of the Act and to make sure there is a fair, consistent and structured review process in place. The draft policy is based on the Local Government Association of South Australia template for such a policy.

The implementation of this policy does not derogate the ability for an applicant to lodge an appeal in the Environment, Resources and Development Court (ERD Court) instead of applying to the RAP for a review of a decision by an Assessment Manager. If an applicant applied to the Panel for a review of a decision and the original decision of the Assessment Manager was upheld, the applicant is still able to appeal the decision in the ERD Court. Such an appeal would be against the decision of the RAP in reviewing the development authorisation, not against the original decision of the Assessment Manager.

The fee to apply for a review of the Assessment Manager decision is currently set at \$531.00 in accordance with the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019.

CONCLUSION

To assist in the process for appeals against a decision of the Assessment Manager it is recommended the policy for the review of decisions made by the Assessment Manager be adopted.

ATTACHMENTS

1. Policy for Assessment Panel Review of Assessment Manager Decisions - July 2022



6.6 MANAGEMENT OF ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT APPEALS – REPORT NO. AR22/42845

Committee:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	10 August 2022
Report No.:	AR22/42845
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Assessment Manager
Summary:	This report considers a process for the management of appeals to the Environment, Resources and Development Court.
Strategic Plan Reference:	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage
	Goal 5: Our Commitment

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/42845 titled 'Management of Environment, Resources and Development Court Appeals' as presented on 10 August 2022 be noted.
2. The Assessment Manager be requested to manage the conduct of appeals to the Environment, Resources and Development Court against decisions of the Limestone Coast Southern Regional Assessment Panel or its delegates, subject to the Assessment Manager undertaking the following actions in each case:
 - (a) Consult the Panel – either at a meeting or by out-of-session communication – and have regard to response/s received before agreeing to a compromise settlement;
 - (b) Consult with the relevant Chief Executive Officer and have regard to any response/s received, in relation to matters likely to have an impact, other than minor, on the conduct, cost or outcome of the appeal; and
 - (c) Inform the Panel at scheduled meetings, or otherwise as appropriate, of the status of any appeal matters at any point in time.



BACKGROUND

The Limestone Coast Southern Regional Assessment Panel (the Panel) has been established under the Planning, Development and Infrastructure Act 2016 (the PDI Act) to operate in relation to a defined scope of development assessment matters across four Local Government Areas of the Limestone Coast. Under the Act the Panel is now the relevant authority and respondent to ERD Court appeals and not the respective Council.

DISCUSSION

Section 202 of the Act sets out the right of appeal in various circumstances.

It will be impractical for the Panel in its constituted form to manage appeal matters in a timely and efficient manner, and appropriate arrangements need to be made to provide for the management of appeal and related matters for the Panel.

It is noted that:

- The arrangements between the councils that have initiated the Panel provide for appeal costs to be borne by the council in whose area the development application is lodged;
- ERD Court appeals are conducted as de novo matters, not involving the 'defence' of a Panel or delegate decision; and
- The PDI Act provision for a 'review of a decision of an Assessment Manager' may result in some matters that otherwise would have been appealed to the ERD Court, not proceeding to the ERD Court.

In the circumstances, it is considered appropriate for the Assessment Manager to manage appeal matters on behalf of the Panel on the following basis:

Consult the Panel - either at a meeting or by out-of-session communication - and have regard to response/s received before agreeing to a compromise settlement;

Consult with the Chief Executive Officer of the relevant council and have regard to any response/s received, in relation to matters likely to have an impact, other than minor, on the conduct, cost or outcome of the appeal; and

Inform the Panel at scheduled meetings, or otherwise as appropriate, of the status of any appeal matters at any point in time.

CONCLUSION

This report is to help ensure appeal matters to the Environment, Resources and Development Court against decisions made in respect to Development Applications are handled in a timely and efficient manner.

ATTACHMENTS

Nil



6.7 LOT 1 BACKLER STREET, ROBE – REPORT NO. AR22/53640

Development No:	22019647
Applicant:	Jessica Malone William Speirs
Property Address:	Lot 1 Backler Street, Robe
Report No:	AR22/53640
CM9 Reference:	AF22/276
Author:	John Mason, Consultant Planner
Nature of Development:	Performance Assessed - Public Notification
Description:	Variation to development no. 2100715, to approve the location of the fourth tee block
Zoning:	<p>Zones:</p> <ul style="list-style-type: none"> • Conservation • Neighbourhood • Recreation <p>Overlays:</p> <ul style="list-style-type: none"> • Affordable Housing • Coastal Areas • Hazards (Bushfire - Medium Risk) • Hazards (Bushfire - Urban Interface) • Hazards (Flooding - Evidence Required) • Native Vegetation • Prescribed Wells Area • Water Protection Area • Water Resources <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage • Minimum Site Area • Maximum Building Height (Levels)
Policy Area:	Nil
Heritage:	Nil

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/53640 titled 'Lot 1 Backler Street, Robe' as presented on 10 August 2022 be noted.
2. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is not seriously at variance with the provisions of the Planning and Design Code; and

3. Development Application Number 22019647, by Jessica Malone and William Speirs is granted Planning Consent, subject to the following condition:
 - (a) The Development shall be carried out in accordance with plans and details as approved.
 - i. Note 1 - Conditions imposed on development application 21007156 continue to apply, unless expressly varied by this consent.
 - ii. Note 2 - It is recommended the applicant/ land owner/ golf course operator establish signage on the golf tee to advise golfers houses are nearby and in good faith, noise should be kept to a minimum.

BACKGROUND

The tee block was retrospectively granted Development Approval by the Council Assessment Panel on 16 June 2021. Since this time, Council became aware the tee block was not positioned in its correct location and required the applicant to seek a variation to the previous approval.

Stormwater infrastructure works along the northern boundary of the subject land were undertaken in June 2020 to rectify a drainage issue at the western end of Backler Street. It was during these works that the applicant undertook the extension to the previous tee block which now forms part of this variation application.

PROPOSED DEVELOPMENT

The variation constitutes more precise plans that correctly illustrate the full extent of the works proposed/ undertaken and the true location of the tee relative to the northern boundary.

Components requiring consideration are as follows.

- Tee block is positioned 2.4m from the northern boundary, as opposed to 4m as originally proposed and approved.
- The level and extent of fill extends 2m (above natural ground level) closer to the northern boundary.

Location reference: LOT 1 BACKLER ST ROBE SA 5276

Title ref.: CT 6180/819 **Plan Parcel:** D112925 AL1 **Council:** DC OF ROBE

Figure 1: Subject land and locality



DEVELOPMENT PLAN PROVISIONS**Consent Type Required:**

Planning Consent

Category of Development:

- Per element: Other - Community - tee block for golf course: Code Assessed - Performance Assessed
- Overall application category: Code Assessed - Performance Assessed
- Reason - P&D Code

Public notification:

- The original application 21007156 was notified and was subject to reasonable objection. The variation proposed is relevant to the issues previously raised, and so the variation requires public notification.

List of representations received:

	Name / Address	Support/Oppose	Wish to be heard
1	Mr James Jess - 39 Backler Street, Robe	Oppose	Yes

Summary of representations opposing development:

Representation	Applicant's Response
Concerns regarding repeated violation of native vegetation regulations	Issues with Native Vegetation Council of SA have been resolved. Existing extensive vegetation between tee block and Jess house, revegetation of areas cleared by Council with native plans and removal of weeds.
Land near the northern boundary was relatively flat prior to the golf tee works and the details of the application are incomplete.	No comment
Overlooking and invasion of privacy	No comment
Noise created from golfers and foot traffic	No comment
Stability of the structure and drainage	No comment

Council comments:

- The tee block was previously approved, and so overlooking and potential impacts upon privacy were previously considered and determined acceptable. The variation to reduce the setback of the tee block from the common boundary does not materially exacerbate this issue.
- Vegetation was cleared with Council stormwater works and further clearance required with the development of the tee block is considered minimal. Native Vegetation Clearance was previously dealt with in the original application.
- The land use is acceptable and lawfully operating. Some noise is anticipated with the use and this will only be for short periods and during daytime hours. An advisory note is recommended

to be added to any approval to encourage the applicant to establish small signage near the tee block advising golfers to keep noise to a minimum.

- The tee block appears to be relatively stable and if anything, would reduce surface water from impacting upon the northern neighbours, given it's a flat permeable grass surface. The batter slopes of the tee are no greater than 1:2 and do not require retaining. Condition 2 imposed on the original application requires the batter slopes on the northern side of the tee block to be vegetated with local species and this requirement still needs to be adhered with.
- The survey plan prepared by Cameron Lock Surveyors illustrates the correct location of the tee block and forms part of the assessment documents. Any alteration of levels near the northern boundary is not extensive.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which is contained in Attachment 1.

Land Use

The land use is not changing with the proposal, and this was previously determined acceptable, noting portion of the tee block extends into the Conservation Zone. It has been previously determined in the courts, planning authorities should anticipate for lawful businesses to expand to a reasonable degree. In this case, a minor expansion of one of the holes is not unreasonable.

Impacts

Consideration has been given to the potential impact of the position of the tee being closer to the northern boundary than originally proposed on the amenity of the adjoining dwellings to the north. Potential impacts include visual impact from the bulk and scale of the fill and earthworks and noise and privacy impacts from the use of the tee by golfers.

As was discussed in the original assessment report, the proposed and existing tees are located above the residential properties to the north resulting in the potential for golfers to look into the adjoining properties and to be seen and heard by the adjoining residents.

The use of the additional tee is not considered to pose any additional impacts in terms of noise or privacy than the use of the golf course in general. The Recreation Zone seeks the use of land for active recreation pursuits, which is anticipated to create some level of amenity impact. The proposal does not result in this amenity impact contravening with the Code policies, subject to adherence with the conditions previously imposed.

The tee block is reasonably well hidden in the landscape and there is vegetation established and to be retained between the tee block and the northern neighbours, mainly 39 Backler Street, the closest neighbour. The tee block is not considered to unreasonably impact on 39 Backler Street or other neighbouring properties.

CONCLUSION

The proposal seeks to vary the approval of an extension to an existing golf tee located at the north western corner of the subject land. The additional tee requires the filling of land to create a levelled platform at the rear of the existing tee with the edges to be battered and revegetated/stabilised, which was previously required/ reinforced by an imposed condition. Consideration has been given to the potential impact of the tee block being marginally closer to the northern boundary upon adjoining land and the natural character of the locality. Ultimately it is concluded that the impacts will not be unreasonable with golf courses an envisaged use within the Recreation Zone, some noise impact anticipated with the appropriate use, and some cut and fill and vegetation clearance required to support a small expansion of it.

INVITES

Ms Jessica Malone and Mr William Speirs, the Applicants

Mr James Jess, the Representor

ATTACHMENTS

1. Application and Assessment Documentation - Lot 1 Backler Street, Robe

6.8	80 MOUNT GAMBIER ROAD, MILLICENT & 81 WYRIE ROAD, MILLICENT – REPORT NO. AR22/53700
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Development No:	21035091
Applicant:	PC Infrastructure Pty Ltd
Property Address:	80 Mount Gambier Road, Millicent 81 Wylie Road, Millicent
Report No:	AR22/53700
CM9 Reference:	AF22/276
Author:	John Mason, Consultant Planner
Nature of Development:	Code Assessed - Performance Assessed
Description:	Retail Fuel Outlet and 9m Freestanding Pylon Sign
Zoning:	Zone: <ul style="list-style-type: none"> • Employment Overlays: <ul style="list-style-type: none"> • Hazards (Bushfire - Urban Interface) • Hazards (Flooding - Evidence Required) • Key Outback and Rural Routes • Prescribed Wells Area • Water Protection Area • Native Vegetation
Policy Area:	Nil
Heritage:	Nil

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/53700 titled '80 Mount Gambier Road, Millicent & 81 Wylie Road, Millicent' as presented on 10 August 2022 be noted.
2. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is not seriously at variance with the provisions of the Planning and Design Code; and
3. Development Application Number 21035091, by PC Infrastructure Pty Ltd is granted Planning Consent subject to the following reasons/conditions/reserved matters:
 - (a) Condition 1 - The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation except where varied by conditions below (if any).
 - (b) Condition 2 - The building and site must be maintained in good condition at all times.
 - (c) Condition 3 - Stormwater from the proposed development shall be disposed of so that it does not affect the stability of the proposed development or any other building on

the site or the neighbouring property, and so that it does not create an unhealthy condition on the site.

- (d) Condition 4 - Adequate lighting shall be provided in accordance with the relevant Australian Standards and light spill onto neighbouring properties shall be minimised, to the reasonable satisfaction of Council.
- (e) Condition 5 - New driveways/ crossovers shall be designed to match existing grades and widths of existing footpaths, to the reasonable satisfaction of Council.
- (f) Condition 6 - Landscaping shall be planted within six months of occupation of the development and maintained in good condition at all times. Dead, dying or diseased vegetation shall be replaced when necessary.
- (g) Condition 7 - The recommendations outlined in the Sonus report dated April 2022 shall be adhered with, to the reasonable satisfaction of Council.

Conditions imposed by Environment Protection Authority under Section 122 of the Act

- (h) Condition 8 - Prior to operation, all fuel storage tanks (apart from diesel and LPG) must be fitted with a Stage 1 vapour recovery system (which includes underground storage tank vent pipes being fitted with a pressure vacuum relief valve) that directs the displaced vapours back into the tank during filling.
- (i) Condition 9 - Prior to operation, all fuel dispensers (apart from diesel and LPG) must be fitted with a Stage 2 vapour recovery system that directs vapours back into the tank during vehicle refueling.
- (j) Condition 10 - Prior to operation, all underground fuel storage tanks must be double-walled and fitted with a leak detection system designed and installed in accordance with clause 4.5 of Australian Standard 4897-2008 The design, installation and operation of underground petroleum storage systems.
- (k) Condition 11 - Prior to operation, all fuel lines between the underground storage tanks and fuel dispensers must be double contained and fitted with a leak detection system, designed and installed in accordance with clause 4.5 of Australian Standard 4897-2008 The design, installation and operation of underground petroleum storage systems.
- (l) Condition 12 - Stormwater runoff from all hardstand areas of the petrol station (including the refueling and fuel delivery areas) must be managed in accordance with the Civil Plan prepared by TMK and dated 1 June 2022 and Information provided on 1 June 2022 in response to the EPA's Request for Information of 30 May 2022 and must be directed via grates and grade changes to the SPEL Purceptor full retention oil/water separator (no bypass function) that:
 - i. Has a minimum spill capture capacity of 10,000 litres.
 - ii. Reduces oil content in the outlet to less than 5mg/L at all times (as confirmed by independent third-party scientific testing).
 - iii. Operates effectively in the event of a power failure.
- (m) Condition 13 - The development (which includes the removal and disposal of all underground storage systems) must be undertaken in accordance with relevant standards and guidelines and the Construction Environmental Management Plan prepared for 'OTR Millicent' by Fyfe and dated 13 May 2022, and a suitably qualified and experienced site contamination consultant be engaged to:
 - i. manage and dispose of contaminated soil in accordance with EPA and other relevant guidelines
 - ii. validate Underground Storage System excavations in accordance with the National Environment Protection (Assessment of Site Contamination) Measure

1999 and other EPA guidelines prior to backfilling or replacement of the Underground Storage System.

Conditions imposed by Commissioner of Highways under Section 122 of the Act

- (n) Condition 14 - Access to the site shall be in accordance with ADS Architects Site and Floor Plan, drawing 16/JN1280/sk01j, dated 16/03/22. All access points shall be suitably signed and line marked to reinforce the desired traffic flow through the site.
- (o) Condition 15 - All vehicles shall enter and exit the site in a forward direction. The largest vehicle permitted on site shall be a 19m B-double.
- (p) Condition 16 - All vehicle parking and manoeuvring areas shall be designed and constructed in accordance with AS/NZS 2890.1:2004, 2890.6:2009 and AS2890.2:2018. Additionally, clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.
- (q) Condition 17 - All redundant crossovers shall be closed and reinstated to Council's kerb and gutter standards at the applicant's expense.
- (r) Condition 18 - Stormwater run-off shall be collected on-site and discharged without impacting the safety and integrity of the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.
- (s) Advisory Note 1 - Certificate of Title - If a current (within the last 3 months) copy of the property's Certificate of Title has not been provided to the relevant authority, the owner(s) is advised to obtain a Certificate of Title from Land Services SA. The Certificate of Title provides additional information not available to the relevant authority. It is the owner(s) responsibility to ensure that development does not breach an encumbrance on the title such as a restrictive covenant, or other obligation such as an easement (e.g. water, power, gas, wastewater) or building envelope. A Certificate of Title can be purchased from <https://www.landservices.com.au/publications-and-reports/get-a-copy-of-your-certificate-of-title>.

Advisory Notes imposed by Environment Protection Authority under Section 122 of the Act.

- (t) Advisory Note 2 - The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.
- (u) Advisory Note 3 - An environmental authorisation (licence) is required for this development. Before commencing operation, the applicant/operator should contact the Environment Protection Authority on (08) 8204 2058 or email EPALicensing@sa.gov.au for information about the licensing application process and requirements.
- (v) Advisory Note 4 - A licence application may be refused where conditions of Development Approval directed by the Environment Protection Authority have not been complied with.
- (w) Advisory Note 5 - More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au

Advisory Notes imposed by Commissioner of Highways under Section 122 of the Act

- (x) Advisory Note 6 - All signage should be consistent with DIT's publication 'Advertising Signs: Assessment Guidelines for Road Safety'.

BACKGROUND

Nil

PROPOSED DEVELOPMENT

An application has been lodged for a retail fuel outlet, which is to be comprised of the following:

- 206m² control building graduating to a height of 7m
- Six bowser canopy at a height of 5.5-6m offering six fuel filling positions
- Fuel tanks with a storage capacity of 140,000 litres
- One vacuum facility with two vacuum bays
- 10 shared carparking spaces, with one disabled space
- Refuse storage area screened with a 2.1m high slatted timber fence
- Lighting (spill guards attached) of the forecourt and driveway areas
- Acoustic treatments and fencing to a maximum height of 2.7m
- A 9m high freestanding LED pylon sign to be installed in the landscaping area nearest the Mount Gambier Road, road boundary.

The application is supported with an Environmental Noise Assessment prepared by Sonus dated April 2022 and updated June 2022, landscaping plan prepared by Oxigen Architects dated 23 March 2022, Site Traffic Compliance Statement prepared by Stantec, CEMP and engineering documentation prepared by TMK and site plan and elevations prepared by ADS Architects dated 16 March 2022.

Site Description:

Location reference: 80 MOUNT GAMBIER RD MILLICENT SA 5280

Title ref.: CT 5410/343 **Plan Parcel:** F191836 AL464 **Council:** WATTLE RANGE COUNCIL

Location reference: 81 WYRIE RD MILLICENT SA 5280

Title ref.: CT 5410/342 **Plan Parcel:** F191835 AL463 **Council:** WATTLE RANGE COUNCIL

Subject Land

The subject land is comprised of two contiguous allotments that together are slightly irregular in shape with a total area of 4,300m². The site has frontages to Mount Gambier Road and Wylie Road and is relatively flat with an approximate one metre difference in height across the site.

Retained on the site is a retail fuel outlet positioned close to the Mount Gambier Road, road boundary and is comprised of a control building with service bays and a canopy with three fuel bowsers. To the rear of the control building is an empty commercial building constructed of brick and has little relationship with Wylie Road. All the buildings/ structures on the site are in a bad state of repair and are considered to have passed their useful life expectancy.



SUBJECT MAP

LEGENDS

— SUBJECT LAND

Figure 1: subject land

Locality

The locality is comprised of a mixture of land uses, which is reflective of being on the periphery of two zones, the Employment Zone and the Neighbourhood Zone. Dwellings are located to the northwest of the site in the form of single storey semi-detached and detached dwellings. The Millicent Motel is retained on the neighbouring site to the southeast, which fronts Mount Gambier Road. Adjacent to the north is a Toyota retail showroom with caryard that also includes usage of the neighbouring site to the northeast from the subject land, noting this site appears to be used for carparking and outdoor display.

Mount Gambier Road connecting with Williams Road are the two major thoroughfares through the township.

DEVELOPMENT PLAN PROVISIONS**Consent Type Required:**

Planning Consent

Category of Development:

Per Element: Retail Fuel Outlet: Code Assessed - Performance Assessed Advertisement: Code Assessed - Performance Assessed

Overall Application Category: Code Assessed - Performance Assessed

Reason - P&D Code

Public notification:

- Table 5 (3) - Development is adjacent land to a site (or land) used for residential purposes in a neighbourhood-type zone.

List of representations received:

	Name / Address	Support/Oppose	Wish to be heard
1	Gary Neve, 82 Mount Gambier Road	Support	Yes
2	Helen Reilly, PO Box 690, Millicent	Support	No



Figure 2: location of representor

Summary of representations opposing development:

Representor’s issues	Applicant Response
Noise impacts	The proposal, with the support of the Sonus environmental noise assessment dated April 2022, has been designed to mitigate noise impacts. The addition of acoustic fencing on certain boundaries, mechanical plant equipment installed behind plant screens, rubbish collection within certain times, and designing the surface of the forecourt to be smooth, including over inspection points, are all considered adequate measures to address the concerns raised.

Noise during construction	<p>There will be a level of noise created during demolition and construction and this is unavoidable. Construction activities will be undertaken by licensed experienced contractors in a manner that is to minimise impact on the surrounding locality, with measures such as, restriction of hours, dust suppression, utilising certain access points, modifying activities dependent of weather and covering vehicle loads prior to exiting the site at the end of the day.</p> <p>Adjoining owners will be given advanced notice of the removal of fencing, all waste will be effectively managed and contained within the site and if any issues arise then the neighbours are welcome to contact the site supervisor.</p>
Impacts of acoustic fencing on Motel signage	The 2.7m high acoustic fencing proposed for the south-eastern boundary with the motel is to be reduced in length to ensure visibility of the motel sign is not restricted (refer Sonus report dated June 2022).
Impacts on sewer and water infrastructure	No development is proposed on the sewer and water easements contained on the property/

Agency Referrals

- Commissioner of Highways

The department for Infrastructure and Transport have advised they do not object to the development, subject to adherence with directed conditions to be imposed on any approval decision.

- Environment Protection Authority

Based on the information provided with the application and provided the conditions are implemented below, the EPA is satisfied that the proposed petroleum storage and dispensing activity would not cause unacceptable environmental impacts.

Internal Referrals

Engineering

- Adequate lighting for pedestrians shall be considered with the development and crossovers.
- Driveways/ crossovers need to match in with existing footpath levels and maintain a 2.5% crossfall and 2.5m width where designated.
- Stormwater detention is adequate for the development and will discharge into Council's 300mm pipe at an acceptable rate.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Attachment 1.



Figure 3: Zone map

Land Use

The components of the application are considered to be captured by the definition of Retail Fuel Outlet, as defined in Part 7 of the Planning and Design Code. The integrated facility is to be managed by one operator and the physical link between the components supports the different modes of transport that can utilise them.

The Employment Zone seeks for the development of a diverse range of low-impact light industrial, commercial and business activities that complements the role of other zones. Built form within the zone should achieve distinct building, landscape and streetscape design to ensure high visual and environmental amenity.

As per PO 1.1 and DTS/DPF 1.1, a retail fuel outlet is an envisaged use in the Zone that provides employment opportunities, will service the local community and will work in conjunction with other desired uses of the Zone, including motor repair stations, retail showrooms and service trade premises.

Although the proposed shop component exceeds the 100m² area contemplated with DTS/DPF 1.2, it is considered of an acceptable scale, supports the numerous components of the development and is not considered to impact on the role of the Suburban Activity Centre located to the northwest.

It should be acknowledged that the proposal is replacing a retail fuel outlet, and so there is arguably existing land use rights that apply to the site and this further supports the proposal and land use.

Subject to resolving amenity, interface between land use and built form issues, the land use is considered acceptable.

Setbacks, Design & Appearance

The major component of the development is the control building, which is to be positioned centrally on the site and orientated toward Mount Gambier Road. The building which graduates to a height of approximately seven metres is a modern design that presents well and will contribute to the streetscape. The main façade encompasses a mixture of materials, including fibre cement sheeting, Colorbond custom orb cladding, weatherboard cladding and large expanses of glass. The glass element wraps around the western side of the building and provides a positive presentation to Wylie Road.

The setback to the primary street (Mount Gambier Road) is considered to respond well to the position of the Motel and its front setback. The Canopy sits behind the setback of the Motel and meets DTS/DPF 3.1. Although the vacuum bays sit close to the secondary street boundary (Wylie Road), the canopy and the control building well exceed the minimum 2 metres sought by DTS/DPF 3.2. The canopy and control building are suitably distanced from the dwellings to the northwest, mainly 2 Wylie Road noting that this dwelling is orientated to the northeast.

The building achieves an overall height of 7 metres, which does not exceed the two storey and or 9 metre height limit of the Zone. The buildings are also positioned appropriately to support/accommodate deliveries, maintenance and emergency vehicles and the general entering and exiting of the site for all anticipated modes of transport.

The landscaping proposed is minimal and is a minor shortfall with the proposal, noting that the frontage to Mount Gambier Road is quite narrow and the site has constraints. Trees and shrubs along the southwestern boundary would soften the hard edge with the Motel and increased landscaping along the Wylie Road, road boundary would increase privacy. This considered, the landscaping shortfall is a minor component of the development and not consequential to the overall recommendation.

In accordance with the landscaping plan prepared by Oxigen Architects, the vegetation proposed is suitable for the local environment conditions and a condition is recommended to be imposed that requires maintenance of the vegetation for the life of the development.

Traffic Impact, Access and Parking

Table 1 – General Off-Street Carparking Requirements seeks the provision of 3 spaces per 100m² of floor for retail fuel outlets or 5 spaces per 100m² of floor area for shops within the integrated complex with no commercial kitchen. The 16 spaces proposed (10 delineated spaces and 6 parks at bowlers) meets the most onerous parking demand of 10 spaces for a 200m² control building.

The access points to support the development virtually work with the existing. The position of the canopy and bowlers supports general traffic entering the site via Mount Gambier Road or Wylie Road and exiting via the southwestern access onto Wylie Road, which will provide motorists with the option of moving east or west along Mount Gambier Road.

The design also supports the movement of the largest vehicle to access the site, which will be 19.1m long B-doubles. These trucks will enter the site via Mount Gambier Road and exit via Wylie Road. Stantec Traffic Consultants have clarified the access points are suitably distanced from the intersection of Mount Gambier Road and Wylie Road and are in accordance with AS/NZS 2890.1. Further, adequate sightlines can be achieved when these vehicles are exiting the site.

Stantec anticipate the fuel outlet will generate 124 vehicle movements per hour during peak periods (62 in/ 62 out) and this anticipated demand is acceptably accommodated for within the existing road network.

Parking spaces will need to meet Australian Standards and a condition is recommended to be imposed on any approval requiring adherence with this. Council's Engineers have noted adequate lighting shall be provided by the developer for footpath crossings the proposed driveway crossovers. Further, footpaths shall have a 2.5% crossfall maintained over crossovers/ driveways and levels and design shall match in with the existing width and grades. These requirements are recommended to be captured in imposed conditions.

Environmental Factors

The environmental noise assessment prepared by Sonus considers the likely activities to occur during daytime hours (7am to 10pm) and night time (10pm to 7am) in worst case 15 minute period, noting the outlet is to operate 24 hours a day. The analysis and expected noise generation is made upon similar facilities that lawfully operate and assessed against the Environment Protection Noise Policy 2007.

Based on the assessment, the noise criterion is determined to be exceeded by the proposed development and the associated activities. To resolve general activity noise projected toward the Motel neighbouring to the south, a 2.7m high fence is recommended to be constructed along the south boundary (equal to the length of the proposed development site). The fence should be a minimum 50mm thick steel structure, have a layer of .35mm BMT sheet steel (Colorbond or similar) on both sides of it, and a single layer of minimum 6mm thick fibre cement sheeting. Fencing to a height of 2.1m high is recommended to be constructed along the western site boundary and 1.8m high fencing to the Wylie Road, road boundary abutting the carparks to the north-west of the control building.

Within the control building, mechanical plant equipment is to be located within a designated area and this area is to have a solid barrier around it consisting 0.35mm BMT sheet steel or a material with the same or greater density and extend 0.5m higher than any unit within this area. The screen walls shall be sealed airtight at all junctions, with consideration of drainage.

Subject to adherence with the above recommendations, the maximum noise level created is not anticipated to exceed the night time 60 decibel maximum. A condition is recommended to be imposed on any approval decision that captures the prescribed requirements of Sonus.

Rubbish collection shall occur between the hours of 9am and 7pm on Sundays and public holidays and 7am to 7pm on any other day, as these are the least sensitive hours and when background noise is at its highest level.

Stormwater is to be captured in underground detention tanks, for which are to release water at a rate of 8 litres per second into Council's infrastructure. Council's Engineers have advised the detention capacity and the release rate is acceptable. A standard condition is recommended to be imposed that ensures neighbours properties are protected if stormwater management on the site was to become an issue.

Signage

The fascia signage proposed with the development is designed to integrate acceptably with the control building and its finishes. Directing the primary signage toward Mount Gambier Road also minimises impact upon the Wylie Road residential properties.

The freestanding sign extends beyond the DTS/DPF criteria, which seeks for 6m height maximum. This considered, the signage is contextual and of an acceptable scale with the development and complements the design and finishes of the control building.

CONCLUSION

The application proposes the replacement of a lawful use, which is envisaged in the Zone. Although there are several different components they are all contingent upon each other and will function in an orderly manner. The design of the development is modern and adequately addresses both street frontages and achieves sufficient setbacks to minimise visual impact.

To ensure amenity impact is minimised, acoustic fencing and treatment of the control building is required, which is to be encompassed as part of the proposal. Other amenity issues of lighting and

landscaping are considered to resolved with conditions of approval, noting the proposal would benefit with additional landscaping.

Access to the site and the design of the outlet is supported by the Commissioner of Highways and Council's engineers, as it caters for the largest commercial vehicles to support the development and the peak traffic demands anticipated are adequately accommodated for within the existing road network.

Stormwater detention and management is also supported by Council's engineers.

The freestanding signage proposed is appropriately positioned and of a suitable height and the fascia signage projects towards Mount Gambier Road to minimise visual impact on the nearest residential properties on Wylie Road.

INVITES

PC Infrastructure Pty Ltd, the Applicant

Mr Gary Neve, the Representor

ATTACHMENTS

1. Application and Assessment Documentation - 80 Mount Gambier Road, Millicent & 81 Wylie Road, Millicent

7 URGENT MOTIONS WITHOUT NOTICE

8 MEETING CLOSE